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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/162,648	09/29/1998	JOHN C. HISERODT		9087

7590 09/22/2004

MEYER PHARMACEUTICALS LLC
1761 KAISER AVENUE
IRVINE, CA 92614

EXAMINER

CHEN, SHIN LIN

ART UNIT PAPER NUMBER

1632

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/162,648

Applicant(s)

HISERODT, JOHN C.

Examiner

Shin-Lin Chen

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 13 August 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): 35 U.S.C. 103(a) rejection of claims 10, 11 and 32.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 10, 11 and 23-32.Claim(s) objected to: None.Claim(s) rejected: 20.Claim(s) withdrawn from consideration: None.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____



Shin-Lin Chen
Primary Examiner
Art Unit: 1632

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that since the information in the package is in the body of the claim and the method of claim 23 is novel, therefore, the cell composition packaged with said information is also novel (amendment, p. 5). This is not found persuasive because of the reasons of record and the reasons below. The information for the treatment of the patient according to the method of claim 23 is the knowledge that is written on a label or a piece of paper, therefore, said information appears to be contained in a package or a kit but not in a pharmaceutical composition. If these information is contained i the pharmaceutical composition, it is unclear how said information is administered into a patient so as to provide therapeutic effect in vivo. Therefore, the pharmaceutical composition comprising the alloactivated lymphocytes would still be obvious to one of ordinary skill in the art in view of the teachings of Granger and Hiserodt as discussed in the Official action mailed 2-13-04 .